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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/038,796	12/31/2001	Marcille F. Ruman	KCC 4767 (K.C. NO. 17,080	2941
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321	7590	12/17/2003	EXAMINER	
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SENNIGER POWERS LEAVITT AND ROEDEL  
ONE METROPOLITAN SQUARE  
16TH FLOOR  
ST LOUIS, MO 63102

REICHLER, KARIN M

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 12/17/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.	10/038,796	Applicant(s)	RUMÁN ET AL.
Examiner	Karin M. Reichle	Art Unit	3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1)  Responsive to communication(s) filed on 25 September 2003.
- 2a)  This action is FINAL.                      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4)  Claim(s) 1-29 is/are pending in the application.  
4a) Of the above claim(s) 1-15, 21-23 and 25-29 is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 16-20 and 24 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on 01 December 2003 is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All   b)  Some \*   c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a)  The translation of the foreign language provisional application has been received.
- 14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1)  Notice of References Cited (PTO-892)    4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5)  Notice of Informal Patent Application (PTO-152)
- 3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4, 6-8, 11.                      6)  Other:

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of the invention of Group II and the species of the method including stretching, engaging and contracting in Paper No. 10 is acknowledged.

2. Claims 1-15, 21-23 and 25-29 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 10.

In addition to claims 1-15, 21-23 and 28-29, claims 25-27 are also withdrawn because upon further review of the specification, e.g. page 29, line 16 et seq, claim 25 is now deemed not generic and thus claim 25 and claims 26-27 which depend therefrom do not read on the elected species. Claim 25 appears to be directed to engagement and sliding during manufacture not placement on the wearer, i.e. "initial assembly" and "prefastened", but the description of such manufacture methods describe species of methods in which retraction is activated, i.e. activation station 206 and activation and retraction stage 303, whereas the elected species is described with regard to manual manipulation as the garment is placed on the wearer, see page 32, lines 5-17, i.e. retraction is merely allowed to take place without activation.

### *Specification*

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Art Unit: 3761

For Example:

*Drawings*

4. The drawings are objected to because in Figures 1 and 4, 42 should denote the liner layer not the waist edge. In Figure 2, the upper left hand 66 does not denote the correct structure. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

*Description*

5. The use of the trademark LYCRA(R)(page 15, line 1) has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Trademarks should be shown either in all capital letters or with a symbol not both.

6. The disclosure is objected to because of the following informalities: The Summary of the Invention section, i.e. a description of the claimed invention, and the invention as claimed should be commensurate in scope prior to allowance, if any, see MPEP 608.01(d) and 1302.01.

On page 18, line 26, is "CHISSO" a trademark?

Appropriate correction is required.

*Claim Objections*

7. Claims 16-20 are objected to because of the following informalities: in claims 16 and 20, line 5, "the wearer" should be --a wearer--. Appropriate correction is required.

*Claim Rejections - 35 USC § 102*

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 16-20 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Widlund et al, '419.

Claims 16-17, 20 and 24: see Figures, especially Figures 8a-8c, i.e. stretching, engaging and contracting, col. 1, lines 6-20, col. 4, lines 36-41, col. 6, line 52-col. 7, line 10, i.e. the first fastening component is 4 and the second fastening component is 1 and 2.

Claims 18-19: these claims set forth the loop material is stretched a certain amount but it is not claimed nor disclosed how such percentages are determined, i.e. what the sample length is, under what force, etc. Therefore, since the Figures of Widlund show the loop material 2, e.g. in Figure 3a, where it is not stretched and the edges of 17 and 18 are next to each other, i.e. 0 percent, and show the loop material, e.g. in Figure 3b, where it is stretched and the edges of 17 and 18 are spaced apart, i.e. many times greater than 0 percent, the loop material is considered to be stretched by the claimed percentages, absent the specifics of how such percentages are determined.

Art Unit: 3761

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Ahr reference teaches a pull on garment with laterally displaceable hook and loop fasteners. The Guevara et al reference teaches a convertible garment with lateral displaceable fasteners. The other references teach resilient or displaceable fasteners. The later filed Vogt reference claims a method in which fasteners are engaged and then mechanically handled to increase engagement other than by contracting.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (703) 308-2617. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703) 308-1957. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

*K.M. Reichle*  
Karin M. Reichle  
Primary Examiner  
Art Unit 3761

KMR  
December 10, 2003